THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.NO.20586 OF 1998

O R D E R (Per the Hon'ble Smt. Justice T.Meena Kumari)

Heard both the counsel.

2. Aggrieved by the judgment dated 11.7.1997 passed by the Central Administrative Tribunal, Hyderabad Bench at Hyderabad in O.A.No.866/1994, the respondent before the Tribunal – the Admiral superintendent, Naval Dockyard, Visakhapatnam filed the present writ petition.

3. From the material available on record, it could be seen that the applicant before the Tribunal filed O.A. alleging that he was appointed as casual labourer with effect from 12.8.1977 under the respondent and after passing the necessary examination, he was promoted as Semi-skilled worker (TMM) with effect from 15.10.1983 in the scale of pay of Rs.210-290 and that when his juniors were promoted as skilled workers in the scale of pay of Rs.260-400 with effect from 15.10.1984, he filed his representation and as the same was rejected, he filed the O.A. His main contention is that prior to 15.10.1984 there was no trade of TMM (Machine) and (Machinist) and that the said differentiation is not based on any authority. On the other hand, the case of the respondent before the Tribunal, is that excepting the persons at Sr.No.(ii), (iii) and (iv), named by the applicant at paragraph no.6(a) of the O.A., the other persons were seniors and that those persons appeared for the departmental trade test for promotion to the next grade in the grade of TMM (Machinist) and accordingly they were promoted with effect from 15.3.1983 and that except the persons at Sr.No.2 and 4, were in the pay scale of Rs.210-290 and that the TMM has different trades under it and that the TMM (Machine) and TMM (Machinist) were two different trades and a separate seniority list

in these two trades were maintained and in accordance with the recommendations of Anomalies Committee, the scale of pay of TMM (Machinist) and nine other trades were upgraded from Rs.210-290 to Rs.260-400 with effect from 15.10.1984 in terms of the Ministry of Defence letter No.3812/DS(O&M)/Civil-I/84 dated 15.10.1984 and as the TMM (Machines) which the applicant was holding was not covered in the letter dated 15.10.1984, no change has taken place. It is also stated that the applicant had chosen for the promotion to TMM (Machines) in the departmental qualifying examination and the persons at paragraph 6(a) of the O.A., appeared for the TMM (Machinists) and accordingly they were promoted in the said grade with effect from 15.3.1983. Therefore, the case of the respondent is that the case of the applicant could not be considered.

4. It is to be noticed that the main contention of the applicant is that prior to 15.10.1984 there was no trades of TMM (Machine) and (Machinist). The case of the respondent is that TMM has different trades under it and TMM (Machine) and Machinist and a separate seniority lists were being maintained. As rightly found by the Tribunal, there is no material on record to show that on what date these seniority lists were prepared and whether they were furnished to the employees, providing opportunity to have their say in the seniority lists. There is no material to show whether the persons included in the 'machines' trade had voluntarily opted or appointed to that trade on 15.3.1983 and further when both the trades TMM (Machines) and (Machinist) were in the same scale of pay, there is no logic in maintaining different seniority lists. Further, the case of the respondent is that the petitioner had appeared for the written examination for TMM (Machines) and the persons named at 6(a) of the O.A. application appeared for TMM (Machinists) and accordingly they were promoted with effect from 15.3.1983. But this document effect promotions on 15.3.1983, as per their options, had not been produced to buttress the claim of the respondent. Further the case of the respondent is that based on the recommendations of the Anomalies Committee the scale of pay of

TMM (Machinist) was upgraded from Rs.210-290 to Rs.260-400 with effect from 15.10.1984. But the respondent has not produced any material to show that the Anomalies Committee recommended only for the upgradation of the scale of payment of TMM (Machinist) and further the recommendations of the said committee were not produced. The Tribunal has rightly opined that seniority rule should have been applied and options should have been invited from the employees, since when the scale of pay of TMM (Machinist) is higher than TMM (Machines), the employees would definitely opt, which is to their advantage. Therefore, considering all these circumstances, the Tribunal has rightly allowed the claim of the applicant and we do not find any material irregularity to interfere with the judgment of the Tribunal and the writ petition is devoid of any merits.

5. For the foregoing reasons, the writ petition is dismissed, confirming the judgment of the Tribunal. No costs.

6. It is made clear that as the respondent failed to produce the vital documents and considering the peculiar facts and circumstances of the case, as this court has confirmed the order of the Tribunal, the same shall not be taken as a precedent.

T.MEENA KUMARI,J

G.CHANDRAIAH,J

AVS
DATE:31.10.2007